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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,454	11/19/2003	Nima Mokhlesi	SNDK.229US2	9853
7590	01/11/2005		EXAMINER	
Parsons Hsue & de Runtz LLP Suite 1800 655 Montgomery Street San Francisco, CA 94111			LAM, DAVID	
			ART UNIT	PAPER NUMBER
			2818	

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/718,454	MOKHLESI, NIMA	
	Examiner	Art Unit	
	David Lam	2818	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/3/04.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: ____.

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1. Claims 1-18, 20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 of U.S. Patent No. 6,345,001. Although the conflicting claims are not identical, they are not patentably distinct from each other because the elements recited in claims 1-18, 20 of the present application are art recognize equivalent with claims 1-9 of U.S. Patent No. 6,345,001.

Mokhlesi claims 1-9 of U.S. Patent No. 6,345,001 discloses method and apparatus of a nonvolatile memory system comprising: a plurality of blocks of non-volatile memory cells wherein the cells within individual ones of the blocks are simultaneously erasable; a controller including a micro-processor that controls programming of data into addressed blocks of memory cells, reading data from addressed blocks of memory cells and erasing data from one or more of addressed blocks of memory cells at a time; storage provided within the plurality of blocks of memory cells that maintains counts associated with individual ones of the memory cell blocks; and a comparator that causes at least one of the counts associated with one or more addressed

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blocks being erased to be updated when the generated random number matches a predetermined at least one of possible numbers generated by the random number generator.

As per above discussion Mokhlesi (6,345,001) discloses the claimed invention but not explicitly discloses an incrementer that increases a second count in response to a corresponding address block being erased.

However, Mokhlesi (6,345,001) disclose a number generator that generating possible of different random number that is controlled by at least one of the counts associated with one or more address blocks being erased.

It would have been obvious to one having ordinary skill in the art at the time of the invention to utilizing Mokhlesi's random number generator as an incrementer in order to provide a memory system that is easier to maintain and debug.

2. Claim 19 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Mokhlesi (6,345,001) in view of Horning (5,414,861).

As per above discussion Mokhlesi discloses the claimed invention as noted above but lack an inclusion of a reserve power source to update the first count base on the incremented value of the second count, in response to an improper shut-down indication.

Horning discloses a data protection system comprising a reserve power source (34) for data protection when power interrupts.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Mokhlesi memory device by utilizing Horning's reserve power source in

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order to provide backup power during power interruption with in the semiconductor memory system.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Lam whose telephone number is 571-272-1782. The examiner can normally be reached on 6:00 – 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Nelms can be reached on 571-272-1787. The fax phone numbers for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D. Lam

January 6, 2005



**DAVID LAM
PRIMARY EXAMINER**